



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
525 NE Oregon Street
PORTLAND, OREGON 97232-2737

F/NWR5

September 19, 2001

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Doug Marker
Acting Director, Fish & Wildlife Division
Northwest Power Planning Council
851 SW 6th Avenue, Suite 1100
Portland, OR 97204-1348

Re: NMFS' Review of Offsite Mitigation Proposals Under Consideration For Action Agency
Funding

Dear Ms. McNary and Messrs. Arndt, McKown, Allee, and Marker:

The Bonneville Power Administration (BPA) recently solicited proposals for projects in several Columbia basin provinces that are consistent with the Northwest Power Planning Council's (Council) Columbia Basin Fish and Wildlife Program. These solicitations have also encouraged project sponsors to submit proposals that address actions set forth in the reasonable and prudent alternative (RPA) of the National Marine Fisheries Service's (NMFS) December 21, 2000,



Biological Opinion covering the Federal Columbia River Power System (FCRPS). The process by which solicited proposals are reviewed, prioritized, and funded is complex. It includes technical review by the Independent Scientific Review Panel, technical and management review by the Columbia Basin Fish and Wildlife Authority (CBFWA), an opportunity for proposers to respond to comments, comprehensive review and recommendations to BPA by the Council, and final funding decisions by BPA.

In years past, NMFS participated in this review process primarily through its membership in CBFWA. NMFS will continue to participate in the CBFWA process to ensure that the consensus recommendations address the full range of NMFS' objectives and mandates, including those outside of its Endangered Species Act (ESA) responsibilities. Since the 2000 FCRPS Biological Opinion was issued, however, NMFS has been asked to provide comments both on the relation of specific proposals to biological opinion requirements and on their effectiveness in meeting the objectives of the biological opinion. These requests have come at nearly every step in the formal review process and, in some cases, for purposes outside of that process. There has been some confusion regarding the extent of review that NMFS intends to provide and the relationship of that review to BPA's concept of "crediting." The purpose of this letter and the enclosed document is to clarify NMFS' intent with respect to project review and its relationship to "crediting." While directed primarily to the BPA, CBFWA, and Council project review process, this letter and the enclosed document are also intended to provide a context for review of U.S. Army Corps of Engineers (Corps) and U.S. Bureau of Reclamation (BOR) projects related to the FCRPS Biological Opinion, should those agencies request such review.

NMFS believes that the evaluation and prioritization of project proposals will be most effective if the project falls within the scope and context of a broader plan, such as subbasin and watershed assessments and plans, recovery plans, a comprehensive monitoring and evaluation program, or, in the case of artificial production, a NMFS-approved hatchery and genetic management plan (HGMP). Where those assessments and plans are not yet completed, NMFS intends to limit its comments on project proposals to the following questions, based on the information offered in the proposal and the related subbasin summaries¹:

1. Whether the project is consistent with one or more of the biological opinion requirements and, if so, the relevant RPA action number(s);
2. which evolutionarily significant units (ESUs) are benefited;
3. a brief description of the potential direct or indirect benefit for that ESU if the project is successfully implemented; and

¹ The subbasin summaries prepared for each province provide some useful context for evaluating proposals, but typically are not sufficient to prioritize specific watersheds or sites for optimizing salmonid production.

4. whether the project supplants an activity otherwise required by an existing NMFS ESA decision document (i.e., a Section 7 biological opinion or a Section 10 take permit) or is likely to be required by an ongoing ESA consultation.

If a proposal is consistent with one or more actions in the RPA, is likely to result in a biological benefit for at least one of the ESUs addressed by the RPA, and is not already required of another Federal, state, Tribal, local, or private entity through an existing NMFS Section 7 or Section 10 ESA decision document, NMFS will give the proposal a “BIOP” label for purposes of the review process. This label means that NMFS considers the proposal to be a possible candidate for the FCRPS Action Agencies’ offsite mitigation program. The significance of this label and its relevance to “crediting” offsite mitigation activities is described in detail in the enclosed document *NMFS Guidance: Giving Credit for Off-Site Mitigation*. Briefly, ascertaining whether a project is a likely candidate for offsite mitigation is the first step in “crediting.” However, final “crediting” decisions will only occur through NMFS’ determinations of adequacy of annual implementation plans and NMFS’ conclusions at the 3-, 5-, and 8-year check-in points described in the 2000 FCRPS Biological Opinion.

In addition, NMFS may highlight particular proposals from among those that receive a “BIOP” label during the CBFWA review process. Reasons for highlighting a project include the degree to which the project implements a particular aspect of the RPA and the quality of the project.

As a co-manager and member of CBFWA, NMFS has responsibilities in addition to implementation of the Endangered Species Act. Accordingly, we will participate cooperatively within the CBFWA process to help identify and highlight proposals that appear to most directly meet important needs within the basin, irrespective of their relevance to the RPA in the 2000 FCRPS Biological Opinion.

To the extent that the Council and BPA request comments from NMFS subsequent to the CBFWA review, NMFS will provide the list of BIOP projects with supporting rationale, the CBFWA prioritization recommendations, and any documents that NMFS submitted to CBFWA during the review process. NMFS does not anticipate providing further comments on the proposed projects. To the extent we identify any gaps in the range of proposed and/or funded projects, they will be addressed in subsequent correspondence with BPA and the other action agencies.

We believe that this approach will provide the necessary ESA-related information that BPA has requested. At the same time, it will allow us to work closely with our co-managers to integrate ESA recovery actions with other important needs of anadromous fish throughout the basin. NMFS believes that a similar approach may also be useful for reviewing Corps and BOR projects

and looks forward to discussions with these agencies to identify a mutually agreeable review process. If you have additional questions, please contact John Palensky, NMFS' CBFWA representative, at 503-231-2177.

Sincerely,

A handwritten signature in black ink that reads "Brian J. Brown". The signature is fluid and cursive, with the first name "Brian" and last name "Brown" clearly legible, and a middle initial "J." in between.

Brian J. Brown
Assistant Regional Administrator
Hydro Program

Enclosure